

1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 31:102. Rebate for a governmental public facility.

5 RELATES TO: KRS 139.010, 139.200, 139.533

6 STATUTORY AUTHORITY: KRS 131.130(1), 139.710

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) requires the Department of  
8 Revenue to promulgate administrative regulations necessary for the administration and enforcement of all  
9 tax laws in Kentucky. KRS 139.710 authorizes the department to administer the provisions of KRS Chapter  
10 139 relating to the assessment, collection, refund, and administration of sales and use taxes. KRS 139.533  
11 establishes the sales tax rebate provisions for sales of admissions to and sales of tangible personal property  
12 at a governmental public facility. This administrative regulation establishes the requirements and  
13 procedures to apply for the sales tax rebate created by KRS 139.533.

14 Section 1. Definitions. (1) "Effective date" is defined by KRS 139.533(1)(a).

15 (2) "Governmental entity" is defined by KRS 139.533(1)(b).

16 (3) "Public facility" is defined in KRS 139.533(1)(c).

17 Section 2. Registration Process. (1) To determine eligibility for the sales tax rebate under KRS 139.533,  
18 the governmental entity shall submit to the Department of Revenue a fully completed Governmental Public  
19 Facility Sales Tax Rebate Registration, Form 51A400.

20 (2) The department shall notify the qualifying governmental entity of the effective date for sales eligible  
21 for the sales tax rebate according to the provisions of KRS 139.533(1)(a) and (3).

22 Section 3. Quarterly Rebate Application Requirements. (1) An approved governmental entity shall file

the following within the sixty (60) day timeframe as provided for in KRS 139.533(4):

(a) A fully completed Governmental Public Facility Application for Sales Tax Rebate, Form 51A401; and

(b) A properly executed Vendor Assignment Agreement for Sales at a Qualifying Public Facility, Form 51A402, for any seller other than the qualifying governmental entity whose receipts are included in the rebate request.

(2) To be considered valid, all [All] applications and other documents required shall be postmarked, electronically submitted or, if delivered by messenger, hand-stamped by the department by the date required ~~[to qualify for consideration]~~.

(3) The department shall pay the rebate amount determined due within the forty-five (45) day timeframe as provided for in KRS 139.533(5).

Section 4. Recordkeeping Requirements. (1) The qualifying governmental entity shall keep adequate and complete records supporting each rebate request for at least four (4) years as provided for in KRS 139.720.

(2) The department may audit part or all of the records of all parties involved as necessary to verify the refund request and to ensure compliance with KRS 139.533.

Section 5. Forms. The forms listed herein may be inspected, copied, or obtained, subject to applicable copyright law, at:

(1) The Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620;

(2) At a Kentucky Taxpayer Service Center during business hours; or

(3) On the department website at <http://revenue.ky.gov>.

~~[Incorporation by Reference. (1) The following material is incorporated by reference:~~

~~(a) "Governmental Public Facility Sales Tax Rebate Registration", Form 51A400, June 2010;~~

~~(b) "Governmental Public Facility Application for Sales Tax Rebate", Form 51A401, June 2010; and~~


~~(c) "Vendor Assignment Agreement for Sales at a Qualifying Public Facility", Form 51A402, June~~

~~2010.~~

1    ~~—(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the~~  
2    ~~Department of Revenue, 501 High Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5~~  
3    ~~p.m.]~~

103 KAR 31:102

APPROVED BY AGENCY:

  
\_\_\_\_\_  
DANIEL P. BORK, COMMISSIONER  
Department of Revenue  
Finance and Administration Cabinet

  
\_\_\_\_\_  
Date

## PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on November 28, 2017, at 1:00 p.m. in Room 11A, State Office Building, Frankfort KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2017. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Tax Policy Research Consultant, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky, 40601, (502) 564-9526 (telephone), (502) 564-3875(fax), [Lisa.Swiger@ky.gov](mailto:Lisa.Swiger@ky.gov)(email).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 103 KAR 31:102

Contact Person: Lisa Swiger

Phone Number: (502) 782-5705

Email: Lisa.Swiger@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation is an amendment that updates regulatory language to conform to recent statutory language revisions.

(b) The necessity of this administrative regulation: The amendment is necessary to update outdated regulatory language and information currently contained in the regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 131.130 and KRS 131.131.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to address outdated information currently contained in the regulation.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The current version of 103 KAR 31:102 contains outdated form dates and Department of Revenue contact information. Verbiage is updated in Section 3(3) to clarify application submission requirements. The proposed amendment updates regulatory language to address these issues.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to update outdated regulatory language and information currently contained in the regulation. Outdated and unnecessary forms dates are removed and DOR contact and address information is updated. Verbiage is updated in Section 3(3) to clarify application submission requirements.

(c) How the amendment conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 131.130 and KRS 131.131.

(d) How the amendment will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to address outdated information currently contained in the regulation with more recently enacted information.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals, businesses, organizations, or state and local governments that access the amended regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to

take to comply with this administrative regulation or amendment: No actions are necessary to comply with the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply with the amended regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Anyone who accesses the amended regulation will benefit from the updated information contained therein.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There is no initial cost to implement the proposed amendment.

(b) On a continuing basis: There is no cost on a continuing bases.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current budgeted department funds will be used to implement and enforce the proposed amendment.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fees or an increase in funding is needed to implement and enforce the proposed amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? (Explain why or why not): No. Tiering is not applied as all taxpayers affected by this regulation will be treated the same.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 103 KAR 31:102

Contact Person: Lisa Swiger

Phone Number: (502) 564-9526

Email: Lisa.Swiger@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130 and KRS 131.131.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None. This amendment is merely a cleanup of outdated language that needed to be replaced with more recent information.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

---